

Amendment No. 1 to HB1365

Crawford
Signature of Sponsor

AMEND Senate Bill No. 989*

House Bill No. 1365

by deleting the language ", not to exceed a total of ten percent (10%) of the total cost of coverage" from § 8-27-901(5) in Section 3.

AND FURTHER AMEND by deleting the following language from § 8-27-906(d) in Section 3:

If the plan participant's attorney or representative fails to provide notice to the plan as required by this section, upon motion by the plan, the plan participant's attorney's interest in any recovery must be reduced by up to fifty percent (50%) with the forfeited amount paid to the plan.

and substituting instead the following:

If the plan participant's attorney or representative is on notice that the plan has an interest in the judgment or settlement and fails to provide notice to the plan as required by this section, upon motion by the plan, the plan participant's attorney's interest in any recovery must be reduced by up to fifty percent (50%) with the forfeited amount paid to the plan.

AND FURTHER AMEND by deleting § 8-27-906(k) in Section 3 and substituting instead:

(k) If a plan participant plaintiff or the plan participant's attorney, or both, fail to timely remit to the counsel or other individual specified in the plan document or SPD the plan's pro rata portion of judgment moneys received, upon motion by the plan, the court may, in its discretion, award to the plan attorney's fees for the cost of the motion, interest on moneys withheld, as well as the amounts withheld, and order those who failed to timely release funds to forfeit to the plan all sums received in payment of the judgment. If the court finds that a motion under this subsection (k) was filed in bad faith, the court

may award to the plan participant plaintiff or the plan participant's attorney, or both, attorney's fees for the cost of the motion, and order the plan to forfeit its net subrogation or reimbursement interest.